

REMARKS

Claims 38, 42-57, and 60-66 are pending in the present application. Applicants elect the first active agent that is a depigmenting substance used in claim 65: a substance that inhibits the activity of tyrosinase, with traverse.

In support of the traverse, applicant notes that “it is improper for the Office to refuse to examiner that which applicants regards as their invention, unless the subject matter in a claim lacks unity of invention” (see Office Action page 2, underlining added).

In the present case, Applicant respectfully submits that claim 65 does not lack unity of invention.

Claim 65 relates to:

A method of depigmenting or bleaching human skin, body hair and/or hair of a head of a subject to lighten a color for purely cosmetic purposes, comprising topical application to the skin, the body hair and/or the hair of the head of said subject of a cosmetic composition comprising at least one oligonucleotide having between 7 and 25 nucleotides, capable of specifically hybridizing with genes or gene products coding for protein kinase C beta-1 (PKC beta-1) wherein the composition further comprises at least one additional active agent that is a depigmenting substance, wherein the active agent is selected from substances that inhibit the activity of tyrosinase, an antisense oligonucleotide directed against tyrosinase gene expression products, an antisense oligonucleotide directed against tyrosinase-related-protein 1 (TRP-1) gene expression products, hydroquinone and its derivatives, placental extracts, kojic acid, arbutin, iminophenols, association of carnitin and quinone, amide derivatives of amino-phenol, and derivatives of benzothiazole.

The method of claim 65 thus comprises topical application of a composition made of at least two active ingredients:

1. at least one oligonucleotide having between 7 and 25 nucleotides, capable of specifically hybridizing with genes or gene products coding for PKC beta-1
- and
2. at least one additional active agent that is a depigmenting substance, selected from a list of depigmenting substances.

While the Examiner focuses on the second type of active ingredient, i.e. “at least one additional active agent that is a depigmenting substance”, he forgets the presence in the composition used in the method of claim 65 of the first type of active ingredient, i.e. “at least one oligonucleotide having between 7 and 25 nucleotides, capable of specifically hybridizing with genes or gene products coding for PKC beta-1”.

However, no matter which at least one additional active agent that is a depigmenting substance” may be present in the composition used in the method of claim 65, the composition always comprises “at least one oligonucleotide having between 7 and 25 nucleotides, capable of specifically hybridizing with genes or gene products coding for PKC beta-1”.

The present application is a PCT application, and criteria for analyzing unity of invention are thus PCT criteria. According to Rule 13.2 PCT:

Where a group of inventions is claimed in one and the same international application, the requirement of unity of invention referred to in Rule 13.1 shall be fulfilled only when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features. The expression “special technical features” shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art (underlining added).

Unity of invention should thus be recognized if all methods comprising the topical application of any composition defined in claim 65 share one or more special technical features that define a contribution over the prior art, i.e. if all methods comprising the topical application of any composition defined in claim share one or more new and inventive technical features.

As explained in detail in response to the previous Office Actions, the Applicant estimates that the use in a method for depigmenting or bleaching human skin, body hair and/or hair of a head of said "at least one oligonucleotide having between 7 and 25 nucleotides, capable of specifically hybridizing with genes or gene products coding for PKC beta-1" constitutes a new and inventive technical feature, which is common to all methods claimed in claim 65.

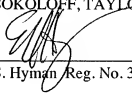
Therefore, applicant respectfully argues that claim 65 does not lack unity of invention and, in view of decisions cited by the Examiner in the Office Action at page 2, a restriction requirement is improper.

If there are any additional fees due in connection with the filing of this response, please charge those fees to our Deposit Account No. 02-2666.

Respectfully submitted,

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Date: 9/14, 2009

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9/14/09
September 14, 2009